

BEFORE THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF:

CLUB FOR GROWTH, INC., PAC
2001 L Street N.W., Suite 600
Washington, D.C., 20036

MUR 5881

WALBERG FOR CONGRESS
6769 Teachout Road
Tipton, MI 49287

BRUCE BENT, ROBERT LANSING,
DAVID MacNEIL, VIRGINIA MANHEIMER,
WILLIAM T. WOLF, and BETTY WOLFE
(Addresses Attached as Exhibit 1),

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2006 NOV 16 P 3:20

COMPLAINT

NOW COMES Schwarz for Congress (Committee ID C00395822), P. O. Box 2063, Battle Creek, Michigan, 49016, and hereby files this Complaint pursuant to 2 U.S.C. § 437g (n)(1) and 11 C.F.R. § 111.4, stating as follows:

THE RESPONDENTS

1. The Club for Growth, Inc., PAC ("CFG-PAC")(Committee ID C00346536) is a non-party multi-candidate PAC organized under 2 U.S.C. § 441(A)(4). It maintains its principal office at 2001 L Street, N.W., Suite 600, Washington, D.C., 20036.

2. Walberg for Congress (Committee ID C00390724) is the candidate committee of Timothy Walberg, who defeated Congressman Schwarz in Michigan's 2006 Republican primary

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election for representative in Congress from the 7th Congressional District of Michigan. The address for Walberg for Congress is 6769 Teachout Road, Tipton, Michigan 49287.

3. Each of Bruce Bent, Robert Lansing, David MacNeil, Virginia Manheimer, Lester Weindling, William T. Wolf, and Betty Wolfe are individuals who contributed to CFG-PAC in 2006 and to Walberg for Congress for the 2006 Republican primary election for representative in Congress from the 7th Congressional District of Michigan. The addresses of these individuals are attached as Exhibit 1.

BACKGROUND FACTS

4. CFG-PAC has solicited, received, and spent millions of dollars in each of the 2000, 2002, 2004 and 2006 election cycles to support specific candidates for federal office. For the 2006 primaries CFG-PAC made expenditures in excess of \$5,000 in twelve elections. In fact, CFG-PAC made independent expenditures on behalf of every candidate endorsed by the CFG-PAC and/or the Club for Growth, Inc. ("CFG"), a Virginia corporation registered with the Internal Revenue Services as a political organization under § 527 of the Internal Revenue Code.

5. According to statistics compiled by The Center for Responsive Politics that appear on its website, www.opensecrets.org/pacs/indexpend.asp, to date, for the 2006 election cycle, CFG-PAC has made \$1,405,929 in independent expenditures for or against candidates for federal office. Of this sum, \$514,211 was spent to support Tim Walberg or to oppose Representative Joe Schwarz or approximately 37% of all expenditures made by CFG-PAC through the primary election.

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6. According to the Michigan Campaign Finance Network in a report of August 4, 2006, appearing on its website, www.mcfm.org, 86% of the financial backing received by Walberg for Congress came directly or indirectly from CFG-PAC.

7. Prior to the 2006 primary, CFG-PAC and/or CFG solicited contributions as a conduit within the meaning of 11 CFR § 110.6(2) to, among others, Walberg for Congress. The solicitations on behalf of the candidates endorsed by CFG-PAC and/or CFG also sought contributions for the CFG-PAC, implying that such contributions would also be used to support the endorsed candidates and/or to oppose their opponents. One of these solicitations, specifically referring to the Walberg-Schwarz primary, is attached as Exhibit 2.

8. On information and belief, individual contributors who gave to both Walberg for Congress and the CFG-PAC knew that a substantial portion of their contributions to the CFG-PAC would go to support Walberg for Congress in the 2006 primary election. This is particularly true given the contribution page at the CFG website, www.clubforgrowth.org/donate/index.php, through which a contributor is asked to contribute to candidates endorsed by CFG and/or CFG-PAC, the CFG-PAC, itself and CFG, itself. The contribution page shows that CFG and CFG-PAC are simply conduits to flout federal limits on campaign contributions.

9. Indeed, after Mr. Walberg's victory in the 2006 Republican primary, CFG and/or CFG-PAC send an email to CFG contributors, Exhibit 3, boasting that CFG-PAC funds fueled Mr. Walberg's victory. This communication further boasted that the CFG-PAC had spent over \$500,000 to the Walberg campaign and that CFG "members" had donated an additional \$600,000 to Walberg for Congress.

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10. Based on the campaign finance reports filed by the CFG-PAC with the Federal Elections Commission, CFG-PAC accepted contributions from individuals in 2006 which exceeded \$5,000. For instance, with respect to those who contributed to both Walberg for Congress and the CFG-PAC, eight individuals gave contributions in 2006 to the CFG-PAC which exceeded \$5,000. These individuals are respondents Bruce Bent, Robert Lansing, David MacNeil, Virginia Manheimer, Lester Weindling, William T. Wolf and Betty Wolfe.

COUNT 1

11. Schwarz for Congress incorporates, as if fully set forth herein, the preceding allegations of this Complaint.

12. For calendar years 2005 and 2006, contributions to a multi-candidate PAC such as the CFG-PAC may not exceed \$5,000 in each calendar year. 11 C.F.R. § 110.1(d).

13. Accompanying this Complaint as Exhibit 4 is a spreadsheet on a computer disc, showing, among other things, the date and amount of contributions for the 2006 election cycle made by certain individuals who contributed to both CFG-PAC and Walberg for Congress. This information was compiled from campaign finance statements filed with the Federal Elections Commission.

14. In 2006, the following individuals made contributions to the CFG-PAC that exceeded \$5,000: respondents Bruce Bent, Robert Lansing, David MacNeil, Virginia Manheimer, Lester Weindling, William T. Wolf and Betty Wolfe. The amount of these individuals' contributions to CFG-PAC that exceeded \$5,000 constitute excess and illegal contributions.

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COUNT 2

15. Schwarz for Congress incorporates, as if fully set forth herein, the preceding allegations of this Complaint.

16. Based on the information filed by CFG-PAC with the Federal Elections Commission, as shown by the spreadsheet on the computer disc attached as Exhibit 4, CFG-PAC neither returned the excess contributions made by the individuals identified in Count 1 nor undertook to follow the rules relating to reattribution of contributions. See, 11 C.F.R., § 110(b), § 110.1(k) and § 110.1(n).

17. CFG-PAC accepted illegal contributions exceeding \$5,000.

COUNT 3

18. Schwarz for Congress incorporates, as if fully set forth herein, the preceding allegations of this Complaint.

19. Under C.F.R. § 110.1(h) an individual may contribute to both a candidate and a PAC supporting that same candidate so long as, among other things, the "contributor does not give with the knowledge that a substantial portion will be contributed to, or expended on behalf of, that candidate for the same election."

20. Through its solicitations on behalf of Walberg for Congress and itself, CFG-PAC made it clear to potential contributors to the CFG-PAC that it would use a substantial portion of any CFG-PAC contributions to support Walberg for Congress. Indeed, as noted above, for the 2006 election cycle through the primary election, some 37% of expenditures made by the CFG-

PAC were expended in support of Walberg for Congress. This constitutes a "substantial portion" of CFG-PAC contributions for the 2006 cycle.

21. The accompanying computer disc, Exhibit 4, displays some 250 contributors to both the CFG-PAC and Walberg for Congress. Figures in blue appearing in the column denoted "WFC Amount" represent earmarked contributions through the CFG-PAC. Figures in black appearing in this column represent direct contributions to Walberg for Congress. Figures in bold black type appearing under the column "CFG-PAC Amount" represents the total contributed to the CFG-PAC by selected persons who also contributed to Walberg for Congress.

22. On information and belief, the contributors shown in Exhibit 4 knew that a substantial portion of their contributions to CFG-PAC would, in fact, be expended to support Walberg for Congress, to whom these contributors also made contributions. In fact, by contributing to both Walberg for Congress and the CFG-PAC, these contributors exceeded the \$2,100 limit to Walberg for Congress for the 2006 primary election by \$540,726.

23. The CFG-PAC and Walberg for Congress knew that a substantial portion of the contributions received by CFG-PAC would be used to support Walberg for Congress. As such, the CFG-PAC and Walberg for Congress knowingly violated the campaign contribution limits applicable to individuals contributing to federal candidates.

REQUEST FOR RELIEF

But for the illegal activity of CFG-PAC and Walberg for Congress to conspire to accept contributions in violation of the individual contribution limits that could be lawfully made to Walberg for Congress, they succeeded in defeating Congressman Schwartz, who otherwise would have won his primary election against Tim Walberg. Based on the foregoing, Schwarz for Congress respectfully requests that the FEC commence an investigation of the allegations set forth in this Complaint, and, ultimately, assess appropriate penalties, as follows:

A. As to the individual Respondents, impose a civil penalty for giving excess contributions to the CFG-PAC in calendar year 2006.

B. As to the Club for Growth PAC: (i) impose a civil penalty for accepting and retaining excess contributions and (ii) impose a civil penalty for expending monies that it received from individual contributors, knowing that a "substantial portion" of these contributions would be expended in support of Walberg for Congress, thereby intending to violate the campaign contribution limits applicable to federal candidates in a given election cycle.

C. As to Walberg for Congress, impose a civil penalty for conspiring with CFG-PAC to obtain individual contributions that exceed the contribution limits applicable to federal candidates for a given election cycle.

D. Schwarz for Congress also respectfully requests that a civil action be commenced against the Club for Growth PAC and Walberg for Congress, seeking an injunction to preclude them from engaging in future conduct that violates the Federal Election Campaign Act, 2 U.S.C. § 431, *et seq.*

The above statements are true and accurate to the best of my knowledge, information and belief.

Respectfully submitted,

SCHWARZ FOR CONGRESS

Dated: November 16, 2006

By:

Matt Marsden

STATE OF

DISTRICT OF COLUMBIA) ss.
COUNTY OF

Signed and sworn to before me by Matt Marsden on this 16th day of November 2006.

Janet M. Gehman
_____, Notary Public
_____, County, _____
My commission expires: _____

Janet M. Gehman
Notary Public, District of Columbia
My Commission Expires 8-31-2009

EXHIBIT 1

Bruce Bent

[redacted]
New York, New York 10021

Robert Lansing

[redacted]
Lake Forest, Illinois 60045

David MacNeil

[redacted]
Chatham, New Jersey 07928

Virginia Manheimer

P.O. Box 60
Lambertville, New Jersey 08530

Lester Weindling

[redacted]
New York, New York 10018

William T. Wolf

P.O. Box 903
Mount Wolf, Pennsylvania 17347

Betty Wolfe

[redacted]
Forth Worth, Texas 76102



To:

From: Pat Toomey, President, and David Keating, Executive Director

RE: Replacing Two RINO Incumbents with Pro-Growth Republicans

February 17, 2006

If Club members keep working together, we'll soon teach tax-loving Republicans a lesson they'll never forget. Nothing wakes up incumbents like seeing their spend-thrift colleagues go down in defeat.

Club members like you are well on the way to making that happen, having donated over \$391,000 in the last few weeks to the campaigns of two key Republican challengers.

Cranston Mayor Steve Laffey is challenging Sen. Lincoln Chafee in the Rhode Island Republican Senate primary. Former state Rep. Tim Walberg is challenging Congressman Joe Schwarz in Michigan's 7th congressional district Republican primary. Despite having an "R" after their names, Chafee and Schwarz are among the most anti-growth liberals in Congress.

And it's not just those two. Today, far too many Republicans in Congress have departed from the vision of Ronald Reagan, which was, as he once wrote, "to scale back the size of the federal government, reduce taxes and government intrusion in our lives... and return to the people the freedoms usurped from them by the bureaucrats."

In Steve Laffey and Tim Walberg, we are lucky indeed to have two excellent candidates who will take on the challenge of returning the Republican Party to its roots and win.

But this won't happen without your help.

As Reagan once asked, "If not us, who? If not now, when?"

Just a few days ago, disclosure reports showed that Laffey raised more money than Chafee in the last quarter of 2005! And Walberg outraised Schwarz in the last quarter, too! For a challenger to outraise an incumbent is practically unheard of -- and it shows the incredible clout and impact of Club for Growth members.

But our work together is not done.

Chafee and Schwarz both started the previous quarter with fat bank accounts and have ready access to special interest PACs. So they still have more money than their challengers.

Laffey and Walberg don't need to match their opponents dollar for dollar. When

Exhibit 2

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Republican incumbents are as out of touch with Republican primary voters as Chafee and Schwarz are, the challengers only need enough money to get their message out.

Let's make sure they have every dollar they need to take their pro-growth, anti-pork message to the voters — if they can do that, they will win.

Let's briefly look at these two races.

First let's look at Sen. Chafee. He:

- opposed every critical pro-growth tax cut proposed by President Bush and passed by Congress.
- repeatedly voted with liberal Democrats like Ted Kennedy and Tom Daschle to gut the Bush tax cuts.
- wants to keep the Death Tax.
- sponsored legislation that would add nearly \$500,000,000,000 in new spending over 10 years.
- received a pathetic 49% rating from National Taxpayers Union for his profligacy.
- supported the notorious \$223 million "Bridge to Nowhere" in Alaska.
- recently voted against slowing the growth of spending by less than one percent.

It's no wonder the *Boston Globe* described Chafee's ideology as being "well-suited for a centrist Democrat." Over his career Chafee has voted with John Kerry nearly 70% of the time!

Steve Laffey — A Pro-Growth, Anti-Pork Republican.

Born and raised in a modest home, Laffey managed to put himself through Bowdoin College and Harvard Business School. He went into investment banking, rising to the presidency of Morgan Keegan. After engineering the highly profitable sale of Morgan Keegan, he came back home to Cranston and successfully ran for mayor.

At the time Steve took office, Cranston had the worst bond rating of any city in America. As Mayor, Laffey ruthlessly attacked the mismanagement that had caused Cranston's problems. He cut costs, established financial controls, rooted out waste and took on bloated union contracts in the courts and in the court of Rhode Island public opinion. Today, Cranston has recovered its investment-grade credit rating and the voters there have re-elected him twice — in a city where just a fraction of voters are Republicans!

In addition to signing the Americans for Tax Reform pledge to oppose tax hikes, Laffey:

- has promised to vote against any increase in any tax.
- supports making the Bush tax cuts permanent, including the reduced income tax rates that have fed the economy's stellar performance in recent quarters.
- supports permanent repeal of the Death Tax.

Laffey's campaign recently started featuring what he calls the "Washington Taxpayer

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Rip-Off of the Week" where he highlights bizarre federal spending programs. Denouncing this week's rip-off, Laffey said "The federal government is not an ATM machine, dispensing cash at every Congressional whim and wish."

As a senator, clearly Laffey would help cut wasteful spending -- especially corporate welfare. He would make the Bush tax cuts permanent, expand international trade, reform insolvent entitlements and fix broken tort laws. In short, he's a pro-growth, limited government Republican -- the kind desperately needed in the U.S. Senate.

Listen to Laffey's own words from National Review: "This November, it will come down to a question of the old versus the new, the reckless versus the responsible and big government versus small government."

This is a race we can and must win. Please send us your most generous donation for Steve's campaign today.

In Michigan's GOP primary, we have a RINO in our sights.

Congressman Schwarz is one of the most liberal Republicans in the House. Our research shows he's also one of the most vulnerable to a primary challenge we've ever seen.

How bad is Joe Schwarz?

While running for governor, Schwarz said, "Prop A was the biggest tax increase in the history of the state...I helped write it; it was a great idea."

The Detroit Free Press reported that, "Only one of the three Democrats running for governor, U.S. Rep. David Bonior, has gone as far as Schwarz on advocating tax increases."

The Detroit Free Press also reported that Schwarz considered rolling back the Bush tax cuts to help finance Hurricane Katrina spending: "Schwarz said the nation had an obligation to rebuild the devastated region, 'and if that means suspending or rescinding some of the tax cuts that have already been made, so be it.'"

Need more? Consider these "highlights" from Schwarz's record in Congress:

- He voted for a "transportation" bill laden with literally thousands of pork projects, including the notorious "Bridge to Nowhere" in Alaska.
- He sided with the labor unions to make sure federal rebuilding contracts in the wake of Hurricane Katrina will pay so-called prevailing wages (i.e., higher-than-market wages that rip-off taxpayers).
- He helped hold a budget-cutting bill hostage until the provision for energy exploration in Alaska was stripped out.
- He voted against an amendment that would have minimized the damage caused by the horrible Supreme Court decision that says government can seize your home and give it to another private party.

Tim Walberg — one of the good guys.

Tim had a stellar record in the State Legislature, repeatedly advocating pro-growth economic policies and fighting for taxpayers. He's a candidate with a backbone who defied his own party's leadership when it wouldn't side with taxpayers.

Tim believes in limited government and is sharply critical of the Supreme Court's *Kelo* decision, which weakened private property rights.

When he ran for Congress last year, the Lansing State Journal quoted Tim as saying "First, I will seek to reduce government spending so more resources can be left directly with the people. Every dollar the politicians spend is one less dollar in the pockets of American families and businesses. Second, I will strive to cut tax rates to increase incentives to work, save, and invest."

We can use a lot more of that common sense pro-growth medicine in Congress. Please make your maximum possible contribution to Tim's campaign today.

The Club for Growth PAC — An Essential Component of our Strategy

Thanks to the McCain-Feingold law, Congress has put a muzzle on you and other members if we dare to tell fellow Americans the truth about any candidate for Congress.

We can't run a single TV or radio ad that even mentions the name of a candidate within 60 days of the November election and 30 days from any primary election without having the Feds threaten to throw us in jail.

It's outrageous, but for now, unfortunately, it's the law of the land.

But there is a way out — the Club for Growth PAC. Contributions to the Club for Growth PAC can be used not only to mention the name of a candidate, but tell the voters to vote for or against him.

And that's exactly what we'll do — in race after race, state after state.

Last year, we set a fundraising record for the Club's PAC. We're currently building up a war chest to use against the very worst candidates and in support of the very best.

In 2004, TV and radio ads by the Club for Growth PAC proved effective in race after race. We will not stand by and watch great candidates lack the means to get their pro-growth message to the voters. And we cannot allow horrible candidates to mislead voters without challenge.

Please make your contribution to the Club's PAC today so we can continue speaking out.

**Replace Chafee with Laffey,
Replace Schwarz with Walberg, and
Build the Club for Growth PAC**

From:

Let's do all we can to help turn around the Congress and replace economic liberals Sen. Lincoln Chafee and Rep. Joe Schwarz with Republicans Steve Laffey and Tim Walberg. (Please write your checks to each campaign, not the Club for Growth.) Here is my contribution of:

Eject Laffey (RD) ☐ \$100 ☐ \$150 ☐ \$200 \$_____ (\$2,100 maximum)

Walberg for Congress (MI) ☐ \$100 ☐ \$150 ☐ \$200 \$_____ (\$2,100 maximum)

I agree that we must speak out about candidates within the closing weeks of an election.
Here is my contribution to the Club for Growth PAC of:

☐ \$100 ☐ \$150 ☐ \$200 \$_____ (\$5,000 maximum)

You may charge your donation on your Credit Card. You may also fax this reply to 202-955-9466, or call us with your credit card ready at 800-784-2741.

☐ Visa ☐ MasterCard ☐ American Express

Card Number: _____ Expiration Date: _____

Name on Card: _____

Federal Election Law requires us to request this information: Please help us comply with this regulation as this will save us substantial administrative costs. Federal election law requires us to use our best efforts to obtain and report the name, mailing address, occupation and name of employer for each individual whose contributions to candidates exceed \$200 in a calendar year.

Occupation: _____

Employer: _____

Donations are not deductible as charitable contributions for federal income tax purposes.

**Paid for by Club for Growth PAC and not authorized by any candidate or candidate's committee.
202-955-5500.**

As always, it's your choice whether or not to support these campaigns, and you are free to give any amount. Corporate checks and corporate credit cards are not permitted. All contributions to the Club for Growth PAC are voluntary and you may refuse to contribute without reprisal.

Club membership number:

Candidate ID 3294316926

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-----Original Message Follows-----
From: "Pat Toomey" <pattoomey@clubforgrowth.org>
Reply-To: "Pat Toomey" <pattoomey@clubforgrowth.org>
Subject: Club Members Take Down Incumbent!
Date: 09 Aug 2006 12:15:12 PDT

Club for Growth Candidate Template

We did it!

Club for Growth members provided the funds to fuel Club for Growth PAC's first-ever primary victory against an incumbent when challenger Tim Walberg defeated Representative Joe Schwarz last night in Michigan's seventh district. The final tally was 53% to 47%, a decisive margin of victory.

It's the first time any Republican has lost his primary this year and the first time in a dozen years a Republican has lost a primary based on ideology.

Voters sent a clear message to Congress that they are tired of the big-spending, big-government policies that contributed so much to incumbent Joe Schwarz's downfall.

Club members donated over \$600,000 to Walberg's campaign and the Club for Growth PAC spent over \$500,000 in independent expenditures including hard-hitting TV and radio ads that underscored Joe Schwarz's liberal record on economic issues.

This race showed the power of Club for Growth members acting together.

You beat the entire Republican establishment, which lined up solidly behind Schwarz despite his pork-happy spending. Schwarz had the backing of many left-wingers too. A prominent environmental group poured over \$350,000 into the race. A who's who of labor unions kicked in over \$130,000 and former Democratic Gov. Jim Blanchard made get-out-the-vote phone calls to Democrats urging them to vote for Schwarz in the primary.

Walberg proved his credentials in the state legislature as a rock solid fiscal conservative and we look forward to him winning in November and boosting the ranks of hard-charging fiscal conservatives in the next Congress.

There was more good news last night for Club members in Colorado's 5th district where primary voters chose Doug Lamborn as the GOP nominee. That lifts the Club PAC's record to an impressive 8-2, which is even more incredible by the fact that we backed a huge number of underdogs this cycle.

FW Club Members Take Down Incumbent!.txt
Club members donated over \$200,000 to his campaign and the Club for Growth PAC spent nearly \$100,000 on independent expenditures, including running TV ads during the closing days of the campaign.

Lamborn won with 27.0% of the vote while his top opponent, Jeff Crank received 25.4%. His primary win in this heavily Republican district almost assures he will replace Rep. Joel Hefley in Congress after the general election. State Senator Lamborn has been a star in the Colorado Legislature, posting the number one ranking from Colorado's leading taxpayer group five years in a row. We're hoping he will give Jeff Flake a good hard run for the #1 slot next year!

The race had a "Dewey Beats Truman" moment when the Rocky Mountain News website posted an article saying that Crank had won. But a few moments before, absentee ballots were counted that propelled Lamborn to victory.

our heartfelt thanks go out to the thousands of Club members who donated to Tim's campaign, Doug's campaign and the Club for Growth PAC. We have the finest group of members in the nation.

Best Regards, Pat
Patrick J. Toomey

President, Club for Growth
2001 L Street, NW, Ste 600
Washington, DC 20036
PH: 202-955-5500

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If you ever want to remove email address information from your membership to the Club for Growth, just click here.